

## **R E M A R K S**

### **A. INTRODUCTION**

Claims 1-34, 36-56, 69, 70, 75, and 77-80 were pending and rejected; Claims 77-79 were withdrawn.

We respectfully request entry of this Amendment as it conforms with the amendment suggested by the Examiner to overcome the present rejections (Office Action, page 6) and would place the application in condition for allowance.

### **B. CLAIM AMENDMENTS**

Upon entry of this amendment: Claims 1-34, 36-56, 69, 70, 75, and 85-88 will be pending; Claims 77-80 will be cancelled; Claim 1 will be amended as proposed by the Examiner; and dependent Claims 85-88 will be added.

The Examiner has suggested an amendment to overcome the present rejection over [www.columbiahouse.com](http://www.columbiahouse.com) and [bestbuy.com](http://bestbuy.com). Claim 1 has been amended in a manner consistent with the Examiner's suggestion. We are grateful for the Examiner's suggestion of this amendment. We do not agree with the necessity of any amendment and believe that the rejected claims are patentable over the cited references. Solely for business reasons and to avoid the delay inherent in the appeals process we have decided to amend Claim 1 consistent with the Examiner's suggestion. We reserve the right to pursue the subject matter of Claim 1 as it was originally filed and as presented during this prosecution. No new matter has been added.

Claims 77-80 have been cancelled without prejudice.

We respectfully submit that Claims 1-34, 36-56, 69, 70, and 75 are allowable and request that the Examiner withdraw the Section 102 and 103 rejections.

New Claims 85-88 depend from allowable Claim 1 and we believe they are also allowable. The new dependent claims recite embodiments for determining terms of a subscription for the product. No new matter has been added. See, e.g., Specification, page 27, line 19 to page 29, line 28. We respectfully request consideration and allowance of new dependent Claims 85-88.

### **C. ADDITIONAL COMMENTS**

Our silence with respect to the Examiner's other various assertions not explicitly addressed in this paper, including assertions of what the cited reference(s) teach or suggest, what is "inherent" in [www.columbiahouse.com](http://www.columbiahouse.com), well known in the art, or the Examiner's interpretation of claimed subject matter, is not

to be understood as agreement with the Examiner. As the claims are in condition for allowance, we need not address the Examiner's other assertions at this time.

We respectfully dispute the Examiner's characterization of "determines" in Claim 1 as necessarily "entail[ing] some form of choice." [Office Action , page 1]. We submit that "determining" terms of a subscription may encompass a variety of activities, including complex selection processes (e.g., requiring evaluation and choice) as well as mere learning of information without evaluation or choice (e.g., receiving terms of a subscription from a retailer). Accordingly, we dispute the Examiner's "major example" distinguishing Claim 77 from Claim 1 on the basis that Claim 1 (at least prior to amendment) requires "some form of choice"—the use of "determining" does not necessarily require choice or evaluation.

**D. PETITION FOR EXTENSION OF TIME TO RESPOND & AUTHORIZATION TO CHARGE APPROPRIATE FEES**

We do not believe that any fees are necessary for this response.

Please grant a petition for any extension of time required to make this Response timely.

Deposit Account: 50-0271

Order No.: 99-077

Please charge any appropriate fees set forth in §§ 1.16 – 1.18 for this paper and for any accompanying papers to Deposit Account 50-0271. Please credit any overpayment to the same account.

**E. CONCLUSION**

It is submitted that all of the claims are in condition for allowance. The Examiner's early re-examination and reconsideration are respectfully requested.

If the Examiner has any questions regarding this amendment or the present application, the Examiner is cordially requested to contact Michael Downs at telephone number (203) 461-7292 or via electronic mail at [mdowns@walkerdigital.com](mailto:mdowns@walkerdigital.com).

Respectfully submitted,

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